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9 Attorneys for Plaintiff
San Jose Police Officers' Association

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 COUNTY OF SANTA CLARA

12
13 SAN JOSE POLICE OFFICERS'
ASSOCIATION,

14 Plaintiff,

15 v.

16 CITY OF SAN JOSE, BOARD OF
ADMINISTRATION FOR POLICE AND
17 FIRE DEPARTMENT RETIREMENT
PLAN OF CITY OF SAN JOSE, and
18 DOES 1-10, inclusive,

19 Defendants.

No.

**DECLARATION OF ERIC NAVARRO IN
SUPPORT OF SJPOA'S *EX PARTE*
APPLICATION FOR TEMPORARY
RESTRAINING ORDER AND ORDER TO
SHOW CAUSE REGARDING
PRELIMINARY INJUNCTION**

20 I, Eric Navarro, declare and say:

21 1. I was employed by the City of San Jose as a Police Officer from 1993 to
22 2012. As a result of my prior employment with the City of San Jose, I am familiar with
23 the facts in this matter, as well as those set forth in this Declaration. If called upon as a
24 witness, I could and would testify competently to these facts.

25 2. I submit this declaration in support of the SJPOA's *Ex Parte* Application
26 for Temporary Restraining Order and Order to Show Cause Regarding Preliminary
27 Injunction ("*Ex Parte* Application for TRO").

28 3. I am married and have two children and another on the way.

1 4. On June 30, 2010, I jumped a fence in pursuit of a wanted felon.
2 Unfortunately, when I came down on the other side of the fence, I landed on an uneven
3 surface and suffered a compound fracture in my tibia and fibula. I had to be transported to
4 the hospital and underwent emergency surgery to straighten out my leg. I spent a week in
5 the hospital and two weeks later had to undergo a second surgery where they inserted 3
6 plates and over 30 screws into my foot and ankle. In December 2010, I had to have a
7 third surgery where the doctors performed a bone graft from my knee to my injured ankle.
8 At that point, the doctors determined that I had a staff infection in my injured ankle and I
9 was admitted to the hospital again. When I was released, I had to have antibiotics fed
10 through an intravenous line for eight weeks and then was on a heavy dose of oral
11 antibiotics until June.

12 5. As soon as I recovered enough to start weight bearing activity, I began to
13 try to rehabilitate my ankle. Unfortunately, my foot basically fell apart on the inside and
14 the doctors advised me that my only option was to have my foot and ankle fused together.
15 The doctors then discovered that antibiotics had not killed the staff infection and, in
16 October 2011, I had to have yet another surgery to remove all of the plates and screws in
17 my ankle and had to go through another course of intensive antibiotics. I was scheduled
18 for a fourth surgery in January 2012 and was told that if the staff infection was still
19 present, the doctors would have to amputate my foot. Luckily, the staff infection had
20 cleared up and the doctors were able to fuse my foot and ankle together,

21 6. Due to my injury, my mobility is still extremely limited. I can only stay
22 on my feet for three to four hours a day and walking is difficult. My doctors have advised
23 me that I will never regain full mobility or use of my foot. As a result, in January of this
24 year, I was medically retired from the San Jose Police Department. I currently receive
25 50% of the compensation I earned as a police officer in retirement disability benefits.

26 7. I have been advised that Measure B will modify disability retirement for
27 San Jose police officers, as detailed below, such that individuals like myself who are
28 injured in the line of duty, may be terminated without any retirement disability benefits.

1 In my experience, police work is extremely physically demanding and dangerous and
2 comprehensive disability retirement protection is therefore a crucial employment benefit
3 for police officers. I am a prime example of the type of injury officers face in their day-
4 to-day job.

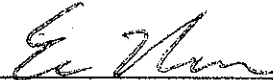
5 8. Under the City of San Jose's current disability retirement plan, I was
6 deemed disabled because I could no longer perform the duties within my peace officer
7 classification (i.e. the normal duties of a police officer). Under the current system, due to
8 my 19 years of service for San Jose at the time I was disabled, I was entitled to retirement
9 disability payments of 50% of my salary as a police officer. The City explained these
10 rights to me many times throughout my career, starting in the Police Academy, and I have
11 relied on these rights throughout my career to protect my family's financial security
12 should I be injured in the line of duty.

13 9. Measure B, if passed by San Jose electorate, would eviscerate the police
14 disability retirement plan. My understanding is that instead of analyzing whether police
15 officers are able to perform police officer functions, the City will analyze whether they
16 can perform the job functions of any position within the Police Department, including jobs
17 that consist primarily of administrative tasks. If they are found to be physically able to
18 perform the job functions of any position within the Police Department, their disability
19 application will be denied. More troubling, if the job or jobs that they have been found to
20 be able to perform are occupied, they will be terminated from city employment without
21 any retirement benefits. In my experience, the non-police jobs in the department are
22 Alarm Technician (1 positions), Crime Prevention Specialist (5 positions), Latent
23 Fingerprint Examiner (5 positions), and Police Artist (1 position). I do not recall when
24 any of these positions was vacant for any significant period of time.

25 10. If the changes delineated in the prior paragraph are implemented,
26 it will have an immediate and catastrophic impact on any police officer who is rendered
27 disabled in the line of duty. I would personally been financially ruined if I did not have
28 disability retirement benefits because my injury makes it impossible for me to secure

1 other employment. I have no doubt that my family would have been forced into poverty
2 under the changes proposed through Measure B.

3 I declare under penalty of perjury under the laws of the State of California that
4 the foregoing is true and correct and that this declaration is executed this 4th day of
5 June, 2012, SAN JOSE, California.

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8 Eric Navarro
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